

REMARKS

The Office Action mailed February 20, 2008 has been carefully considered.
Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment of the Claims

Claims 1-41 are currently pending.

No claims stand allowed.

Claims 1-31 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. The changes include replacing all occurrences of "said" with "the." Support for these changes may be found in the specification, figures, and claims as originally filed.

New claims 32-41 have been added, which also particularly point out and distinctly claim subject matter regarded as the invention. Support for these claims may be found in the specification, figures, and claims as originally filed.

Examiner's Response to Applicant's Prior Amendment

In the Office Action mailed February 20, 2008, the Examiner states:

Applicant's arguments filed on December 13, 2007, with respect to claims 1-29, on page 9 and through page 13 of the remarks, have been fully considered but they are moot in view of the new ground(s) of rejection necessitated by the new limitations added to claims 1-29. See the above rejections of claims 1-29 for the relevant interpretation and citations found in Keeler et al., disclosing the newly added limitations.¹

The Applicant assumes the Examiner intended to refer to Applicant's Amendment dated November 26, 2007 ("prior Amendment"). The Applicant respectfully disagrees with the

Examiner's statement that the new grounds of rejection in the present Office Action were necessitated by new limitations added to claims 1-29 in the prior Amendment, as Claims 1-29 were not amended in the prior Amendment.

The 35 U.S.C. § 103 Rejection

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Roose et al.² in view of Keeler et al.,³ among which claims 1, 11, 20, 30, and 31 are independent claims.⁴ This rejection is respectfully traversed.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.⁵

Claim 1

Claim 1 as presently amended recites:

A method comprising:
sensing a user device coupled to a port of a network access device;
determining if the user device supports a user authentication protocol; and
placing the port into a semi-authorized access state if it is determined that the user device does not support the user authentication protocol, the semi-authorized access state providing the user device with limited network access.

The Examiner states:

¹ Office Action mailed February 20, 2008, at p. 10.

² U.S. Publication No. 2003/0217151 to Roose et al.

³ U.S. Publication No. 2007/0220596 to Keeler et al.

⁴ Office Action at p. 3.

⁵ M.P.E.P. § 2143.

... Roese et al. clearly disclose and show a method for providing multiple access modes (paragraph 50 (multiple access points)) in a data communications network (paragraph 8 (data network)), comprising: (a) sensing a user device (fig. 2 (step 210), paragraph 69, lines 7-10) coupled to a port of a network access device; (b) determining if said user device supports a user authentication protocol (paragraph 100 (802.1 x to authenticate user for network access control)); and (c) placing said port into a semi-authorized access state (fig. 5 (steps 520, 525 (steps 520, 525, and 530 (not authenticated - access at selectable level option)); paragraph 112, lines 17-25); wherein said semi-authorized access state limits access (fig. 5 (step 530 - access at selectable service levels)) by said user device to a pre-configured network accessible (fig. 5 (step 530 - access at selectable level option)) via the data communications network. However, Roese et al. do not specifically disclose that the user device does not support said user authentication protocol. In the same field of endeavor, Keeler et al. clearly show the user device does not support said user authentication protocol (fig. 4 (212,222), paragraphs 0067-0068 (select default network for unknown id)). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method for providing multiple access modes, as taught by Roese, and add the non-support of said user authentication protocol by a user device as taught by Keeler, so that network access can be performed smoothly.⁶

The Applicant respectfully disagrees for the reasons outlined below.

Roese et al. in view of Keeler et al. Does Not Disclose or Suggest Determining If The User Device Supports A User Authentication Protocol

Contrary to the Examiner's statement, Roese et al. in view of Keeler et al. does not disclose or suggest determining whether the user device supports a user authentication protocol as required by Claim 1. The Examiner admits that Roese et al. does not disclose or suggest this limitation. Instead, the Examiner refers to FIG. 4 reference numerals 212 and 222 and the following portion of Keeler et al. in support of the Examiner's contention:

[0067] In step 212 the network provider may examine the received identification information, e.g., the System ID, or other identification information and determine *whether the received identification information is known or recognized*. In step 212 the method may also determine if other id information is valid. If the identification information is determined to not be known, e.g., the System ID is unknown, then in step 222 the method may perform processing to account for the

⁶ Office Action at pp. 3-4.

unknown identification information. Step 222 may also involve performing processing for an unknown or incorrect digital certificate or other unknown information.

[0068] In step 222, where *the identification information is determined to not be known or recognized*, the method may select a default network provider for the user for network access. The default network provider may be the provider who maintains the wireless network system being used, or may be a randomly selected provider. In step 223 the user may be required to register with this provider to gain network access. This provider may then arrange for ad hoc billing of the user, such as by credit card. For example, the provider may present a web page on the user's PCD 110 requesting the user to enter credit card information for access to the network. Operation then proceeds to step 232.⁷

The above portion of Keeler et al. cited by the Examiner merely discloses determining whether identification information of a user is recognized. The cited portion of Keeler et al. says nothing about a user authentication *protocol*, let alone determining whether a user device *supports* a particular user authentication protocol. The Applicants respectfully submit the Examiner's attempt to equate identification information with the mechanism (authentication protocol) by which identification information is exchanged or communicated between entities, is improper.

For the above reasons, the 35 U.S.C. § 103 Rejection of Claim 1 based on Roesse et al. in view of Keller et al. is unsupported by the cited art of record. Thus, a *prima facie* case has not been established and the rejection must be withdrawn.

Claims 11, 20, and 30

Claim 11 is a non-means-plus-function apparatus claim corresponding to method claim 1. Claim 20 is a non-means-plus-function system claim corresponding to method claim 1. Claim 30 is an *In re Beauregard* claim corresponding to method claim 1. Claim 1 being allowable, Claims 11, 20, and 30 must also be allowable for at least the same reasons as Claim 1.

Dependent Claims 2-10, 12-19, and 21-29

Claims 2-10 depend from Claim 1. Claims 12-19 depend from Claim 11. Claims 21-29 depend from Claim 20. Claims 1, 11, and 20 being allowable, Claims 2-10, 12-19, and 21-29 must also be allowable.

Claim 31

Claim 31 is a means-plus-function apparatus claim. In support of the 35 U.S.C. § 103 rejection of Claim 31 based on Roese et al. in view of Keller et al., the Examiner refers to substantially the same portions of Roese et al. and Keller et al. used in the rejection of non-means-plus-function apparatus claim 11, non-means-plus-function system claim 20, *In re Beauregard* claim 30, and method claim 1. The Examiner is referred to the U.S. Patent and Trademark Office document entitled "Examination Guidelines For Claims Reciting A "Means or Step Plus Function" Limitation In Accordance With 35 U.S.C § 112, 6th Paragraph" ("Guidelines"), a copy of which is submitted herewith for the Examiner's convenience. The Guidelines state:

... Per our holding, the 'broadest reasonable interpretation' that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, *the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a Patentability determination* ...

... [The] examiner shall interpret a § 112, 6th paragraph "means or step plus function" limitation in a claim as limited to the corresponding structure, materials or acts described in the specification and equivalents thereof in acts accordance with the following guidelines.⁸

⁷ Keeler et al. at ¶¶ 67-68. (emphasis added)

⁸ "Examination Guidelines For Claims Reciting A "Means or Step Plus Function" Limitation In Accordance With 35 U.S.C § 112, 6th Paragraph," U.S. Patent and Trademark Office, <http://www.uspto.gov/web/offices/pac/dapp/pdf/exmgu.pdf>, p. 1. (emphasis added)

The Guidelines state further:

... if a prior art reference teaches identity of function to that specified in a claim, then under Donaldson an examiner carries the initial burden of proof for showing that the prior art structure or step is the same as or equivalent to the structure, material, or acts described in the specification which has been identified as corresponding to the claimed means or step plus function.⁹

As Claim 31 of the present application is a means-plus-function claim and Claims 1, 11, 20, and 30 of the instant application are non-means-plus-function claims, they cannot be said to be drawn to identical subject matter. Furthermore, the Examiner has not shown for each means-plus-function claim, that the prior art structure or step is the same as or equivalent to the structure, material, or acts described in the specification which has been identified as corresponding to the claimed means or step plus function. Therefore, the Examiner has not established a *prima facie* case and the 35 U.S.C. § 103 rejection of Claim 31 must be withdrawn.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.


⁹ Guidelines at p. 3. (emphasis in original)

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Respectfully submitted,

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